

# Frequently Asked Questions about the Montana Medical Marijuana Act

**MONTANA MEDICAL MARIJUANA ACT, I-148:** “Medical use” means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate the symptoms or effects of a qualifying patient's debilitating medical condition.

## 1. When did I-148 pass?

Initiative 148, the Montana Medical Marijuana Act, was approved on November 2, 2004, by an affirmative vote of 62 percent of Montana voters.

## 2. What does the initiative actually say?

[Click here](#) to read the full text of I-148.

## 3. How do I register as a medical marijuana patient with the state?

“Qualifying patients” must register with the Montana Department of Public Health and Human Services, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT, 59620-2953. Phone: 406-444-2676.

To register, the patient must submit (on forms provided by the department) the following information:

- (a) Written certification that the person is a qualifying patient;
- (b) an application or renewal fee;
- (c) the name, address, and birth date of the qualifying patient;
- (d) the name, address, and telephone number of the qualifying patient's physician; and
- (e) the name, address, and birth date of the qualifying patient's caregiver, if any.

## 4. What medical conditions are eligible?

Patients must suffer from a debilitating medical condition, defined as:

- (a) cancer, glaucoma, or positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), or the treatment of these conditions;
- (b) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:
  - (i) cachexia or wasting syndrome;
  - (ii) severe or chronic pain;
  - (iii) severe nausea;
  - (iv) seizures, including but not limited to those caused by epilepsy; or
  - (v) severe or persistent muscle spasms, including but not limited to those caused by multiple sclerosis or Crohn's disease; or
- (c) any other medical condition or treatment for a medical condition adopted by the department by rule. (NOTE: To date, the department has not added to the list by administrative rule.)

## **5. What written certification must I provide to be eligible?**

A doctor must certify in writing that you have a debilitating medical condition and that the benefits of using marijuana for medical purposes would likely outweigh the risks. When a patient registers, the department provides a form for the attending physician to sign stating that it is his/her professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, that the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana will likely outweigh the health risks for the qualifying patient.

## **6. Can I grow my own medical marijuana?**

Yes. A "qualifying patient" who is approved and registered by the state may grow medical marijuana--up to a limit of six plants and one ounce of dried marijuana in possession.

## **7. How much medical marijuana can I possess?**

A qualifying patient and a qualifying patient's caregiver may each possess six marijuana plants and one ounce of usable marijuana. "Usable marijuana" means the dried leaves and flowers of marijuana and any mixture or preparation of marijuana.

## **8. Do any age limits apply?**

Registered caregivers must be 18 or older. Patients under age 18 must have the consent of their parent or guardian responsible for medical decisions. The parent or guardian must be the registered caregiver of the minor patient.

## **9. How much is the registration fee?**

The fee for applying or the annual renewal of a state medical marijuana registration is \$50.00 a year. Presently, there is no sliding-fee scale.

## **10. Who has access to the patient registry list?**

The state will maintain a confidential list of "qualified patients" and "approved caregivers" to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and is not subject to disclosure, except to:

- (a) authorized employees of the department as necessary to perform official duties of the department; or
- (b) authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

## **11. Can doctors get in trouble for discussing medical marijuana?**

Not under Montana state law. A physician may not be arrested, prosecuted, or penalized in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Board of Medical Examiners or

the Department of Labor and Industry, for providing written certification for the medical use of marijuana to qualifying patients.

#### **12. Do I get a prescription from my doctor?**

The federal government classifies marijuana as a Schedule I drug, which means that licensed medical practitioners cannot prescribe it. Your physician must provide written certification of a “debilitating medical condition” and can only recommend the use of medical marijuana.

#### **13. Why are only M.D.s (medical doctors) and D.O.s (doctors of osteopathy) qualified to sign the physician's “written certification” on the application? Why not naturopaths, chiropractors, or nurse practitioners?**

The Montana Medical Marijuana Act states that an “attending physician” means a physician licensed under MCA Title 37, Chapter 3. M.D.s and D.O.s are the physicians licensed under this chapter. The statute is specific to physicians licensed in Montana.

#### **14. Does my physician have to be licensed in Montana?**

Yes. The physician licensing statutes referenced by the Medical Marijuana Act is specific to physicians licensed in Montana. The department verifies with the Board of Medical Examiners that each patient's attending physician has a valid license to practice medicine as an M.D. or D.O. in Montana and has no disqualifying restrictions.

#### **15. Is there a list of doctors I can talk to?**

There is no published list of doctors available. It is the responsibility of the patient to work with a physician with whom he/she has a bona fide doctor-patient relationship.

#### **16. Can you refer me to a doctor?**

No. It is the responsibility of the patient to work with a physician with whom he/she has a bona fide doctor-patient relationship.

#### **17. Where can I consume medical marijuana?**

Presuming you are registered with the state patient registry and carrying your registry identification card, you may consume medical marijuana on your property or elsewhere. However, the law does not permit:

- (a) any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana; or
- (b) the smoking of marijuana:
  - (i) in a school bus or other form of public transportation;
  - (ii) on any school grounds;
  - (iii) in any correctional facility; or
  - (iv) at any public park, public beach, public recreation center, or youth center.

**18. If I live in a nursing home, assisted living facility, or a retirement home, can I consume medical marijuana?**

Presuming you are registered with the state patient registry and carrying your registry identification card, the law does not specifically prohibit the use of medical marijuana in those settings. However, the facility or home may have prohibitions. Therefore, you must verify with the facility if using medical marijuana is permitted and under what circumstance or conditions.

**19. Can I use medical marijuana at work?**

This is up to the employer. Even if you are a registered patient, your employer may still forbid medical marijuana use in the workplace.

**20. Will my medical insurance cover medical marijuana?**

Probably not. The law specifically excludes government and private insurance entities from being required to cover any costs associated with medical marijuana.

**21. Will paraphernalia associated with my medical use be protected?**

Yes. In Section 7 of the Medical Marijuana Act, asserting medical use of your "paraphernalia relating to the consumption of marijuana" is an affirmative defense, provided that you have a qualifying condition and possess an amount reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of the medical condition of the person identified in subsection (l)(a). In Section 4, the act restricts the amount that may be possessed at any one time to no more than six marijuana plants and one ounce of usable marijuana.

**22. Can the police search me just for having a patient registry card?**

No, not under Montana law. Possession of, or application for, a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

**23. I am a valid medical marijuana patient under another state's law. Am I protected?**

Yes, under Section 4(8) of the Montana Medical Marijuana Act [Sec. 50-46-201(8), MCA], a registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department.

**24. Where do I get seeds? Where do I get plants? Where do I get a bag of medical marijuana?**

The Medical Marijuana Act allows a patient or caregiver to grow no more than six plants or possess no more than one ounce of usable marijuana. The state does not give advice or referrals to obtain a supply of marijuana.

**25. I am too ill to grow my own medical marijuana and need a caregiver. What can I do?**

The Medical Marijuana Act provides for a system of designated caregivers. The caregiver's name, address, and birth date must be provided to the state at the time of a patient's registration. The department will issue a registry identification card to the caregiver who is named by a qualifying patient on his/her application.

The caregiver must sign a statement agreeing to provide marijuana only to the qualifying patients who have named the individual as their caregiver. The department may not issue a registry identification card to a proposed caregiver who has previously been convicted of a felony drug offense. The department will verify through a background check with the Department of Justice that the designated caregiver has no disqualifying felony drug conviction.

A caregiver may receive reasonable compensation for services provided to assist with a qualifying patient's medical use of marijuana.

**26. How can I be a caregiver and grow marijuana for patients?**

To be a caregiver, you will need to register your personal information (name, address, and birth date) with the state. A qualifying patient must name you at the time he/she registers as a patient. Individuals convicted of a felony drug offense are not eligible to be caregivers. You may be a caregiver for more than one patient.

**27. Can patients form growing cooperatives?**

The law does not address this. Consult with your local law enforcement officer or personal attorney.

**28. Is the Montana Medical Marijuana Act recognized by other states? Can I travel to another state with medical marijuana and not be arrested or charged with civil or criminal penalties because I have my Montana registration card?**

At this time, the department is not aware of any "reciprocity" agreements with any other states to honor the Montana law. This includes those states that have medical marijuana laws of their own, such as Washington, Colorado, and California. The Montana Medical Marijuana Act is only recognized within Montana. However, possession of marijuana in states with no medical marijuana program is definitely illegal, and you may be arrested and charged with civil or criminal offenses.

**29. I don't have the money for the registration fee. Is it a one-time payment? Can it be waived? Can I make installment payments?**

Full payment, by check or money order, must be made at the time of the initial application and at renewal each year. The fee cannot be waived, and the department cannot accept installment payments.

**30. Why can't I just go to a pharmacy to fill a prescription for medical marijuana?**

Pharmacies can only dispense medications that are prescribed. Marijuana is currently classified by the federal government as a Schedule I drug, which means it cannot be prescribed by any health care professional. CI-148 only allows doctors to recommend medical marijuana. The Medical Marijuana Act allows patients or their caregivers to grow medical marijuana for the patient's private use. The Montana Medical Marijuana Act makes no provisions for a supply or source.

**31. Why do I need to have a physician sign and date the form and send a written certification to the department? Why can't I just provide my medical records?**

According to the Medical Marijuana Act, a physician must state in writing that the patient has a qualifying debilitating medical condition and that medical marijuana may mitigate the symptoms or effects of that condition.

**32. Do I have to list a "grow site" address on my application (the place where I plan to grow my medical marijuana)?**

No. CI-148 does not require the address of the actual grow site.

**33. Do I have to tell my landlord that I'm using medical marijuana? Can my landlord evict me if I have my grow site in my rental housing? Can I live in subsidized housing?**

Nothing in the act specifically addresses whether you can be evicted because you are using medical marijuana, even if you have only the amount of medical marijuana allowed by law. Nor does the act directly address a patient living in subsidized housing.

Section 4(1) of the act [Sec. 50-46-201(1), MCA] does state that a "qualifying patient or caregiver who possesses a registry identification card issued pursuant to [section 3] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege... for the medical use of marijuana or for assisting in the medical use of marijuana if the qualifying patient or caregiver possesses marijuana not in excess of the amounts allowed in subsection (2)." If you have questions about these important issues, the department recommends you talk to your personal attorney to learn about your rights and protections.

**34. Do I have to tell the department if I change my mailing address, change a primary caregiver or physician, or have a change in my debilitating medical condition?**

The answer to all of these questions is "yes." You are required to notify the department of any changes in the qualifying patient's name, address, physician, or caregiver or change in status of the qualifying patients debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, as prescribed by the act, the registry identification card is void.

**35. I live within 1,000 feet of a school, which is a "drug-free zone." Can I still grow and/or possess my medical marijuana there?**

The Medical Marijuana Act does not address this issue. For questions about laws other than the act, please contact your local law enforcement agency for guidance or consult with your personal attorney.

**36. Do I need to keep a copy of my application and any other information I send to the department to register?**

This is up to each individual. However, it may be prudent to keep copies of everything you send to the department.

**37. What should I tell my employer if I am subjected to a drug test?**

The Medical Marijuana Act does not discuss whether employers are required to accommodate employees who use medical marijuana. It is up to you to decide whether to tell your employer. Questions about testing should be discussed with your personal attorney.

**38. How are the laws and rules of the Medical Marijuana Act enforced?**

The department enforces provisions of the act that are concerned with registration, such as making sure applications are complete before issuing a registry identification card, denying incomplete or fraudulent applications, and suspending cards if individuals violate the act. Local and state law enforcement agencies may check to see if patients or caregivers possess or are growing the amount of medical marijuana allowed by law.

Local and state law enforcement personnel may also take any action they believe necessary to enforce the criminal laws of the state, including violations of the Medical Marijuana Act. Local and state law enforcement actions may vary. The department has no authority to direct the activities of local and state law enforcement agencies.